

FILED '11 JUN 22 12:03 USDC-ORM

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
PORTLAND DIVISION

DONALD ERNEST ALLEE,

CV. 11-188-PA

Plaintiff,

ORDER

v.

J. SHURBONDY, et al.,

Defendants.

PANNER, District Judge.

Plaintiff in this prisoner 42 U.S.C. § 1983 case asks the court to reconsider its prior Order denying his Motion for Partial Summary Judgment. Plaintiff's Motion for Reconsideration is DENIED because: (1) there is no basis upon which reconsideration of the court's Order would be appropriate pursuant to Fed. R. Civ. P. 60(b); and (2) plaintiff's subsequent filing of a Motion for Summary Judgment supersedes and, thus, moots the Motion for Partial Summary Judgment.

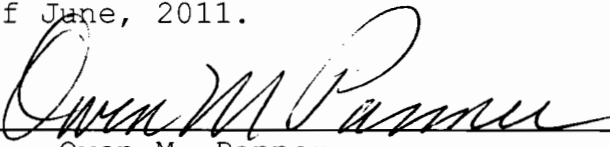
With respect to the Motion for Summary Judgment [16] which plaintiff filed on June 13, 2011, a party submitting a written motion to the court is required to serve the motion "upon each of the parties" to the lawsuit. Fed. R. Civ. P. 5(a). Such motions must also include a certificate of service. Fed. R. Civ. P. 5(d)(1). Because plaintiff's Motion for Summary Judgment does not include the required certificate of service, the court concludes that he failed to serve a copy of his Motion on counsel for defendants. As a result, the Motion for Summary Judgment is denied without prejudice.

**CONCLUSION**

Plaintiff's Motion for Reconsideration [13] and Motion for Summary Judgment [16] are DENIED.

IT IS SO ORDERED.

DATED this 22 day of June, 2011.

  
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Owen M. Panner  
United States District Judge